

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. Serial No.:	10/597,909	Int'l App No.:	PCT/US05/04254
Int'l Filing Date:	February 12, 2005	Priority Date:	February 12, 2004
Applicant(s):	Olstein, Alan D.	Atty Docket no.:	21001.012US

Title: **SELECTIVE GROWTH MEDIUM FOR *LISTERIA spp***

**RESPONSE TO NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT  
APPLICATIONS CONTAINING NUCLEOTIDE AND/OR AMINO ACID  
SEQUENCE DISCLOSURES 37 CFR 1.821-1.825**

Mail Stop PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

To the Commissioner:

In response to the Notice to Comply, mailed August 17, 2007, with a response due by October 17, 2007, Applicant respectfully submits that the Notice was issued in error. The Application neither includes nor refers to a sequence of nucleotides or amino acids.

The Notice to Comply states that "This application clearly fails to comply with the requirements of 37 CFR 1.821-1.825." This Notice requests that the Applicant must provide a computer readable form of the sequence listing referred to in the application.

The definition of nucleotides and amino acids are stated in 37 CFR 1.821:

- (a) Nucleotide and/or amino acid sequences as used in §§ 1.821-1.825 are interpreted to mean an unbranched sequence of four or more amino acids or an unbranched sequence of ten or more nucleotides . . .
- (b) Patent applications which contain disclosures of nucleotide and/or amino acid sequences, in accordance with the definition in paragraph (a) of this section, shall, with regard to the manner in which the nucleotide and/or amino acid sequences are presented and

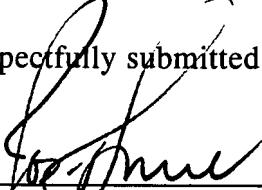
described, conform exclusively to the requirements of  
§§ 1.821-1.825.

Therefore, 37 CFR 1.821-1.825 are applicable only to applications that contain specifically defined sequences of nucleotides and/or amino acids. The current application does not contain either amino acid sequences or nucleotide sequences. Because the application does not include any sequences that are regulated by 37 CFR 1.821, the current application need not (cannot) comply with the requirements of 37 CFR 1.821-1.825. Thus, the Notice to Comply has been issued in error.

Additionally, we spoke with Christopher Lowe, Acting Group Director TC1600, on October 16, and he confirmed that the application does not require action under 37 CFR 1.821.

Applicant submits that the application is satisfactory and is ready for examination on the merits.

Respectfully submitted,

  
Joseph T. Leone, Reg. No. 37,170  
Customer No. 25005  
DEWITT ROSS & STEVENS S.C.  
8000 Excelsior Drive, Suite 401  
Madison, Wisconsin 53717-1914  
Telephone: (608) 831-2100  
Facsimile: (608) 831-2106

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to:

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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/597,909	Alan D. OLSTEIN	21002.012US
INTERNATIONAL APPLICATION NO.		
PCT/US05/04254		
I.A. FILING DATE	PRIORITY DATE	
02/12/2005	02/12/2004	
CONFIRMATION NO. 7773		
371 FORMALITIES LETTER		
 *OC000000025433219*		

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Date Mailed: 08/17/2007

**NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS  
 CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURES**

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- This application clearly fails to comply with the requirements of 37 CFR. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", **as well as an amendment specifically directing its entry into the application**. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:

- For Rules Interpretation, call (571) 272-0951
- For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.
- Send e-mail correspondence for Patentin Software Program Help @ [ebc@uspto.gov](mailto:ebc@uspto.gov)

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.  
<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

**If you are not using EFS-Web to submit your reply, you must include a copy of this notice.**

KAREN R MCLEAN

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Telephone: (703) 308-9140 EXT 214

**PART 1 - ATTORNEY/APPLICANT COPY**

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10/597,909	PCT/US05/04254	21002.012US

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